IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Crl.Rev.Pet.No. 777 of 1999()

CRA.295/1996 of SESSIONS COURT, THRISSUR
ST.3591/1995 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR .
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REVN. PETITIONER: APPELLANT/ ACCUSED

RAJENDRAN, S.O.VELANDI,
NEDIYIRIPPIL, KAZHIMBRAM, VALAPAD.

BY ADV. SRI.K.A.JALEEL
SRI.T.T.MUHAMOOD
SRI.ARUN VALENCHERY

RESPONDENTS: RESPONDENTS/ COMPLAINANT AND STATE
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1. JOSEPH, S/O.BENCHAMIN, ELENJILLAL,
KARA DESOM, EDAVILANGU VILLAGE,
THRISSUR DIST.

2. STATE OF KERALA,. REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.K.J.MOHAMMED ANZAR
BY PUBLIC PROSECUTOR SRI. DILIP.S

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/ 07 /2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. 777/1999

ORDER ON CRL.M.P. NO.3487/1999 IN CRL.RP. 777/1999

DISMISSED

12.07.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

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K.R.UDAYABHANU, J

Crl.R.P.No.777 of 1999

Dated this the 12th day of July, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to pay a fine of Rs.55,000/- and in default, to undergo simple imprisonment for two months. The fine amount, if realised, Rs.50,000/- shall be paid as compensation to the complainant.

2. The prosecution case is that the accused borrowed a sum of Rs.50,000/- and towards the discharge of the same issued the impugned cheque which when presented for encashment got dishonoured for want of funds in the account of the accused. There was no response to the reply notice sent.

3. The evidence adduced in the matter consisted the testimony of PWs' 1 and 2 and Exts. P1 to P5. PW1 is the complainant himself and PW2, the Bank Manager, have testified as to the execution of the cheque, the issuance to the dishonour memo and the intimation as the cheque happened to be dishonoured for want of funds in the account of the accused.

4. The contention raised by the revision petitioner is that

the trial court observed that there is some differences in signature in the cheque and in the admitted documents produced before the court. I find that as rightly observed by the trial court the admitted signatures are those that came into existence subsequent to the filing of the complaint. Hence, the appellate court has discarded the above observation. The revision petitioner/accused has not sent a reply notice also. In the circumstances and in the light of evidence adduced in the matter, I find no reasons to interfere in the concurrent findings of the court below. The conviction is confirmed.

5. All the same, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.50,000/- and in default, to undergo simple imprisonment for three months. The revision petitioner is granted six months' time from today onwards to remit the amount of compensation. He shall appear before the Judicial First Class Magistrate Court-I, Kodungallur on 14.1.2008 to receive sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl